

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ANDY SPARKS, JR.,

Plaintiff,

v.

CRAIG HUTCHINSON, et al.,

Defendants.

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Case No. 16-cv-10752

HON. MARK A. GOLDSMITH

**ORDER (1) ACCEPTING THE REPORT AND RECOMMENDATION OF THE  
MAGISTRATE JUDGE DATED JANUARY 4, 2017 (Dkt. 38); (2) GRANTING  
DEFENDANT HUTCHINSON'S MOTION FOR SUMMARY JUDGMENT (Dkt. 14)  
AND DEFENDANT AIKEN'S MOTION TO DISMISS (Dkt. 28); AND (3) DENYING  
PLAINTIFF'S MOTIONS TO AMEND THE COMPLAINT (Dkts. 23, 24) AS MOOT**

This matter is presently before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge David R. Grand, issued on January 4, 2017 (Dkt. 38). In the R&R, the magistrate judge recommends: (i) granting Defendant Craig Hutchison’s motion for summary judgment (Dkt. 14) and dismissing the claims against Hutchinson without prejudice; (ii) granting Defendant Subrina Aiken’s motion to dismiss (Dkt. 28) and dismissing the claims against Aiken with prejudice; and (iii) denying Plaintiff Andy Sparks, Jr.’s motions to amend his complaint (Dkts. 23, 24) as moot.

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Smith v. Detroit Fed’n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987) (failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash,

328 F.3d 98, 1078 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard.”). There is some authority that a district court is required to review the R&R for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error and accepts the recommendation.

Accordingly, the Court grants Defendant Hutchison’s motion for summary judgment (Dkt. 14) and Defendant Aiken’s motion to dismiss (Dkt. 28). The claims against Hutchinson are dismissed without prejudice, while the claims against Aiken are dismissed with prejudice. The Court also denies Plaintiff’s motions to amend his complaint (Dkts. 23, 24) as moot. A separate judgment will enter.

SO ORDERED.

Dated: January 24, 2017  
Detroit, Michigan

s/Mark A. Goldsmith  
MARK A. GOLDSMITH  
United States District Judge

### **CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 24, 2017.

s/Karri Sandusky  
Case Manager